

This Amended Findings and Decision supercedes all previous decisions rendered in this matter. The Medical Review Division's Findings and Dismissal of March 20, 2003, was issued in error and subsequently withdrawn by the Medical Review Division. The Original Findings and Dismissal, Appeal Letter and Withdrawal Notice are reflected in Exhibit 1.

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

## **I. DISPUTE**

1. a. Whether there should be reimbursement for Chronic Pain Management program.
- b. The request was received on November 20, 2002.

## **II. EXHIBITS**

1. Requestor, Exhibit 2:
  - a. TWCC 60 and Letter Requesting Dispute Resolution
  - b. HCFA's
  - c. EOB
  - d. Medical Records
  - e. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
2. Respondent, Exhibit 3:
  - a. Initial response not submitted.
3. Based on Commission Rule 133.307 (g) (4), the Division notified the insurance carrier Austin Representative of their copy of the request on March 6, 2003; the memorandum, was signed by the Austin Representative on March 13, 2003. The Respondent did not submit a response to the initial request. The "No Response Submitted" sheet is reflected in Exhibit 4 of the Commission's case file.
4. Notice of Medical Dispute is reflected as Exhibit #4 of the Commission's case file.

## **III. PARTIES' POSITIONS**

1. Requestor: The requestor states in the correspondence faxed on November 11, 2002 that... "...Please accept this as an initial request for MDR for services that were

preauthorized per SOAH ruling on 2/25/02...”

2. Respondent: Response not submitted.

#### **IV. FINDINGS**

1. Based on Commission Rule 133.307(d) (1) (2), the only dates of service eligible for review are those commencing on December 12, 2001 and extending through February 1, 2002.
2. The issues in dispute are lack of preauthorization and retrospective review of medical necessity by peer review. The Carrier’s denial is not consistent with 133.301(a) which states in part that an insurance carrier shall not review the medical necessity of a medical bill for treatment and/or services for which the health care provider has obtained preauthorization.
3. The Requestor submitted disputed billing for the same dates of service that were already reviewed in M4-03-1570-01. Per Rule 133.307(m)(4) the Commission may dismiss these dates of service as they have been previously adjudicated in M4-03-1570-01. However, the Commission recognizes these additional bills were not submitted as part of the first dispute. These bills are from each interdisciplinary team member who were actually billing for their time of individual participation in the Chronic Pain Management Program, the same CPT code 97799-CP at the rate of \$150.00 per unit billed.
4. Per the 1996 Medical Fee Guideline, Medicine Ground Rules (II)(G)(8-9) requires the program to be billed no less than 4 hours per day in the first week and billed each day with the number of hours spent in the program.
5. Per Rule 134.801(e)(2) the Commission does not allow the health care provider to bill separately if they are part of an interdisciplinary program.
6. The billing is inconsistent with the requirements of the Medical Fee Guideline and Commission rule. On this basis, the Commission is unable to Order reimbursement for the disputed dates of service in this medical dispute. Consequently, the Commission also recognizes the Findings and Decision for M4-03-1570-01 was inconsistent with Commission rules, the Medical Fee Guideline and this decision and therefore, was issued in error.
7. The Respondent has violated Rule 133.301(a) and the Requestor has exceeded the 1996 Medical Fee Guideline and violated Rule 134.801(e)(2); both parties will be billed for this review.

This Amended Order is hereby issued this 16<sup>th</sup> day of April 2003.

Marguerite Foster  
Medical Dispute Resolution Officer  
Medical Review Division

MF/mf